UNITED STATES OF AMERICA DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OFFICE OF ADMINISTRATIVE LAW JUDGES

The Secretary, United States)	
Department of Housing and Urban)	
Development, on behalf of)	
Fair Housing Council of Greater San Anto	onio,)	
Charging Party,)	
)	
V.)	FHEO No. 06-02-0439-8
)	
Hearst Newspapers Partnership, L.P.,)	
Hearst Newspapers Partnership, L.P.,)	
d/b/a San Antonio Express-News, and)	
Hearst Communications, Inc.)	
Respondents.)	
)	

INITIAL DECISION AND CONSENT ORDER

I. BACKGROUND

On or about April 26, 2002, Fair Housing Council of Greater San Antonio (Complainant) filed a verified complaint with the United States Department of Housing and Urban Development (HUD or the Department), alleging Hearst Communications, Inc., Hearst Newspapers Partnership, L.P., and Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News violated the Fair Housing Act as amended in 1988, 42 U.S.C. Section 3601 *et seq.* (the Act), by publishing advertisements, with respect to the sale or rental of a dwelling that indicate a preference, limitation or discrimination based on race, religion, sex, familial status, and national origin, in violation of 42 U.S.C. Section 3604(c).

On July 13, 2004, the Department issued a Charge of Discrimination (Charge). The Charging Party alleged that the Respondent Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News made, printed, or published, or caused to be made, printed, or published advertisements in the <u>San Antonio Express-News</u>, with respect to the sale or rental of a dwelling that indicated preferences, limitation, or discrimination based on race, religion, sex, familial status, and national origin.

This Initial Decision and Consent Order (Consent Order or solely Order) resolves the Department's Charge on behalf of Fair Housing Council of Greater San Antonio.

II. <u>ADMINISTRATION</u>

- 1. This Consent Order is entered pursuant to Section 812(g)(3) of the Act and the regulations codified at 24 C.F.R. § 180.450 and shall become final upon the expiration of thirty days or affirmance by the Secretary within that time. *See*, 42 U.S.C. § 3612(h); 24 C.F.R. § 180.680. The signatures of the parties to this Consent Order constitute a waiver of any right to withdraw their consent during the thirty day Secretarial review period and a waiver of any right to challenge the validity of this Order at any time. *See*, 24 C.F.R. § 180.450.
- 2. The parties agree that the execution of this Consent Order may be accomplished by separate execution of consents to this Order, the original executed signature pages to be attached to the body of the Consent Order to constitute one document.
- 3. The term of this Consent Order shall be one (1) year from the effective date of this Consent Order.
- 4. The parties agree that the Charging Party's counsel will file this Consent Order with the Office of Administrative Law Judges by facsimile signature and original upon receipt.
- 5. If this Consent Order is not accepted and issued by the Administrative Law Judge in section X., this Consent Order is null and void.

III. MUTUAL WAIVERS AND RELEASES

- 6. The United States Department of Housing and Urban Development shall regard the entry of this Initial Decision and Consent Order as a complete disposition of any and all claims, damages and injuries of whatever nature whether presently known or unknown, arising out of the forty-two (42) advertisements which were the basis of the Charge of HUD Case Number 06-02-0439-8, or which could have been filed in any action or suit arising from said subject matter.
- 7. In consideration of the execution of this Consent Order, and other good and valuable consideration, Complainant Fair Housing Council of Greater San Antonio hereby forever waives, releases, and covenants not to sue Respondents Hearst Newspapers Partnership, L.P.; Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News; and Hearst Communications, Inc., their heirs, executors, agents, employees, successors, attorneys and assigns, with regard to any and all claims, damages, and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of HUD Case Number 06-02-0439-8, or which could have been filed in any action or suit arising from said subject matter.

- 8. In consideration of the execution of this Consent Order, Respondents Hearst Newspapers Partnership, L.P.; Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News; and Hearst Communications, Inc. hereby forever waive, release, and covenant not to sue Complainant Fair Housing Council of Greater San Antonio, or his heirs, successors, executors, agents, attorneys, and assigns, with regard to any and all claims, damages and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of HUD Case Number 06-02-0439-8, or which could have been filed in any action or suit arising from said subject matter.
- 9. In consideration of the execution of this Consent Order, Respondents Hearst Newspapers Partnership, L.P.; Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News; and Hearst Communications, Inc. and Complainant Fair Housing Council of Greater San Antonio hereby forever waive, release, and covenant not to sue the United States Department of Housing and Urban Development, or its employees, heirs, successors, agents, attorneys, and assigns, with regard to any and all claims, damages and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of HUD Case Number 06-02-0439-8, or which could have been filed in any action or suit arising from said subject matter.

IV. GENERAL PROVISIONS

- It is understood that the signing of this Agreement by the Respondents Hearst 10. Newspapers Partnership, L.P.; Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News; and Hearst Communications, Inc. does not constitute an admission of any violation of the Fair Housing Act by the Respondents Hearst Newspapers Partnership, L.P.: Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News; and Hearst Communications, Inc. or any of its agents. The Complainant Fair Housing Council of Greater San Antonio and Respondents Hearst Newspapers Partnership, L.P.; Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News; and Hearst Communications, Inc. agree that in signing this Agreement, there is no admission of guilt or innocence by the Respondents Hearst Newspapers Partnership, L.P.; Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News; and Hearst Communications, Inc. to the allegations of this complaint, and the Respondents Hearst Newspapers Partnership, L.P.; Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News; and Hearst Communications, Inc. expressly deny all allegations in the complaint.
- 11. The parties acknowledge that this Consent Order is a voluntary and full settlement of the disputed complaint. The parties affirm that they have read and fully understand the terms set forth herein. No party has been coerced, intimidated, threatened, or in any way forced to become a party to this Consent Order.

- 12. The parties acknowledge that the terms set forth herein are contractual and not merely a recital of the parties' intentions. The parties acknowledge that they have read and fully understand the significance of the provisions of this Initial Decision and Consent Order and their obligations hereunder.
- 13. It is understood that pursuant to Section 810(b)(4) of the Act, this Consent Order is a public document.
- 14. This Consent Order does not in any way limit or restrict the Department's authority to investigate any other complaint involving Respondents Hearst Newspapers Partnership, L.P.; Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News; and Hearst Communications, Inc. made pursuant to the Fair Housing Act, or any other complaint within the Department's jurisdiction, except as provided in ¶ 6.
- 15. No amendment to, modification of, or waiver of any provisions of this Consent Order shall be effective unless: (a) all signatories or their successors to the Consent Order agree in writing to the amendment, modification, or waiver; (b) the amendment, modification, or waiver is in writing; and (c) the amendment, modification, or waiver is approved and signed by the Fair Housing and Equal Opportunity Regional Director, Region VI.

V. <u>RELIEF FOR COMPLAINANT</u>

16. Within ten (10) days of the date that this Consent Order becomes effective, the Respondent Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News shall tender to Complainant Fair Housing Council of Greater San Antonio, a certified or cashier's check made payable to Fair Housing Council of Greater San Antonio, in the amount of \$25,000.00 to be used by the Fair Housing Council of Greater San Antonio to sponsor a fair housing conference in San Antonio, Texas in 2005. The check should be sent to the following address:

Sandra Tamez c/o Fair Housing Council of Greater San Antonio 4414 Centerview Drive, Ste. 170 San Antonio, Texas 78228

17. Respondent Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News shall publish two (2) quarter page (1/4) advertisements in the <u>San Antonio Express-News</u>, at no cost to Complainant Fair Housing Council of Greater San Antonio, to promote the above-referenced fair housing conference. The Fair Housing Council of Greater San Antonio will determine the wording of these advertisements and placement in the newspaper in consultation with the appropriate person(s) at the <u>San Antonio Express-News</u>.

- 18. Within six (6) months of the date that this Consent Order becomes effective, the Respondent Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News shall contact Sandra Tamez of the Fair Housing Council of Greater San Antonio and schedule four (4) hours of fair housing training for all current employees of the San Antonio Express-News involved with soliciting, receiving, and/or reviewing advertisements for residential dwellings. Such fair housing training shall be completed within one (1) year of the final Order in this case. The training shall focus on the Fair Housing Act requirements applicable to the advertising of residential property, including the Act's authority and goals, the various types of discrimination prohibited by the Act, a range of the overt and covert behaviors that have been found to be discriminatory, with an emphasis on discriminatory advertising and its harms.
- 19. Within seven (7) days of the date that the fair housing training described in ¶17 occurs, the Respondent Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News shall tender to Sandra Tamez of the Fair Housing Council of Greater San Antonio, see address above, payment in the amount of \$350.00 per employee that attends the fair housing training.

VI. RELIEF IN THE PUBLIC INTEREST

- 20. Respondents Hearst Newspapers Partnership, L.P.; Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News; and Hearst Communications, Inc., agree to comply with all provisions of the Fair Housing Act, 42 U.S.C. §§3601, et seq. Specifically, Respondents agree not to make, print, or publish or cause to be made, printed or published any advertisement with respect to the sale or rental of a dwelling which indicates any preference, limitation, or discrimination on the basis of race, religion, sex, familial status, and national origin or any other protected basis under 42 U.S.C. §§3601, et seq. Respondents Hearst Newspapers Partnership, L.P.; Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News; and Hearst Communications, Inc. retain their right to informally resolve any complaints filed against them through conciliation, 42 U.S.C. §3610.
- 21. Within fourteen (14) months that this Consent Order becomes final, Respondent Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News shall submit documentation of compliance with fair housing training requirements specified in ¶17 to Garry Sweeney, FHEO Regional Director for Region VI in the Fort Worth, Texas HUD office.

22. All required documentation of compliance with fair housing training requirements must be submitted to:

Garry Sweeney, FHEO Regional Director, Region VI U.S. Department of Housing and Urban Development 801 Cherry St.

Fort Worth, Texas 76102 Telephone: 817-978-5868 Facsimile: 817-978-5876

23. Respondent Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News is required to create and maintain a system for screening real estate sale and rental advertising to assure compliance with the Fair Housing Act. The Respondent Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News is required to keep a written policy on file pertaining to this system, that may be entitled Advertising Standards of Acceptance, for purposes of HUD monitoring, for the period of this Order, and are required to permit HUD access to view this policy upon 24 hours notice.

VII. MONITORING

24. HUD shall determine compliance with the terms of this Consent Order. During the term of this Consent Order, HUD, after affording Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News 24-hour notice, may review compliance with this Consent Order, subject to and in accordance with HUD regulations. The Respondent Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News agrees to provide full cooperation in any monitoring review undertaken by HUD to ensure compliance with this Consent Order.

VIII. REMEDIES FOR BREACH

- 25. The parties agree to attempt to resolve any disputes regarding implementation of this agreement.
- 26. Upon a breach of any provision of this Consent Order, the United States may petition the United States Court of Appeals for the Fifth Circuit for the enforcement of the final decision and for appropriate temporary relief or restraining order in accordance with 42 U.S.C. §3612(j).

IX. <u>SIGNATURES</u>

Sandra Tamez (On behalf of Complainant Fair Housing Council of Greater San Antonio)	Date
Eve Burton (On behalf of Respondents Hearst Newspapers Partnership, L.P.; Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News; and Hearst Communications, Inc.)	Date
For the Secretary:	
Allyssa D. Wheaton-Rodriguez, Trial Attorney Office of General Counsel for Region VI	Date
William Daley, Regional Counsel Office of General Counsel for Region VI	Date
X. <u>ACCEPTANCE AND ISSUANCE PUI</u>	-
The attached waiver of election to U.S. Distriction and Consent Order.	ct Court is hereby made a part of this,
Constance T. O'Bryant Acting Chief Administrative Law Judge	
Signed this day of	, 2004

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT



Texas State Office, Southwest Office of General Counsel 801 Cherry Street P.O. Box 2905 Fort Worth, Texas 76113-2905

August 6, 2004

VIA FACSIMILE (210) 733-6670

Ms. Sandra Tamez Executive Director Fair Housing Council of Greater San Antonio 4414 Centerview Drive, Ste. 170 San Antonio, TX 78228

VIA FACSIMILE (212) 649-2041

Ms. Eve Burton The Hearst Corporation Office of General Counsel 959 Eighth Avenue New York, NY 10019

SUBJECT: Fair Housing Council of Greater San Antonio v. Hearst Newspapers

Partnership, L.P., et al FHEO# 06-02-0439-8

Dear Ms. Tamez and Ms. Burton:

With your signature on this letter, you agree to waive your right under 24 C.F.R. § 180.410(b)(1) to elect to have the claims in the aforementioned case asserted in a civil action under 42 U.S.C. 3612(o).

Sincerely,

Allyssa D. Wheaton-Rodriguez Trial Attorney

Sandra Tamez (On behalf of Complainant Fair Housing Council of Greater San Antonio)	Date	
Eve Burton (On behalf of Respondents Hearst Newspapers Partnership, L.P.; Hearst Newspapers Partnership, L.P. d/b/a San Antonio Express-News; and Hearst Communications, Inc.)	Date	